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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,820	09/20/2001	David Thomas Davies		1047
20462	7590	01/14/2004	EXAMINER	
SMITHKLINE BEECHAM CORPORATION CORPORATE INTELLECTUAL PROPERTY-US, UW2220 P. O. BOX 1539 KING OF PRUSSIA, PA 19406-0939			WEDDINGTON, KEVIN E	
			ART UNIT	PAPER NUMBER
			1614	

DATE MAILED: 01/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application N . 09/889,820	Applicant(s) DAVIES ET AL.
	Examiner Kevin E. Weddington	Art Unit 1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 04 November 2003.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-24 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 1-22 is/are allowed.

6)  Claim(s) 23 and 24 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a)  The translation of the foreign language provisional application has been received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_ .  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 16 . 6)  Other: \_\_\_\_ .

Claims 1-24 are presented for examination.

Applicants' amendment and information disclosure statement filed November 4, 2003 have been received and entered.

*Allowable Subject Matter*

Claims 1-22 are allowable.

*Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 24 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter and is not being examined on the merits.

The phrase "use of" in claim 24 is not an acceptable claim language term used in the United States Patent Office. Applicants may wish to amend claim 24 to recite "a method of use" or "a composition".

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claim 23 is rejected under 35 U.S.C. 102(a) as being anticipated by France Patent (L), hereby known as Renault et al.

Renault et al. teach piperidine derivatives and their therapeutic uses (see the enclosed abstract). Note one of the piperidine derivatives, the R group is 4-quinazolinyl, which includes one of the applicants' compounds, 1-[2-(1,1-dimethylethyl)-4-quinazolinyl]-3-(4-piperidinyl)-1-propanone, and is formulated into compositions. Clearly, the cited reference anticipates the applicants' instant composition the same compound. Clearly, the cited reference teaches the applicants' instant composition is old and well-known in the art, therefore, the instant composition is unpatentable.

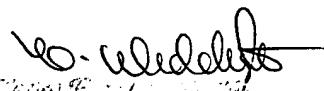
Claim 23 is not allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin E. Weddington whose telephone number is (703) 308-4650. The examiner can normally be reached on 11:00 am-7:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marrianne Seidel can be reached on (703) 308-1235. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.

K. Weddington  
January 12, 2004

  
Kevin E. Weddington  
Primary Examiner  
Art Unit 1614